AE

| Notice of Allowability | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/680,244 | CURRIE ET AL. | |
| | Examiner | Art Unit | |
| | Hargobind S. Sawhney | 2875 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *10/8/03*.

2. ☒ The allowed claim(s) is/are *1-8*.

3. ☒ The drawings filed on *03 May 2004* are accepted by the Examiner.

4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   **Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**

7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

## DETAILED ACTION

1. On March 10, 2005, the examiner contacted the attorney, Mr. Robert N. Blackman, to discuss the restriction requirement for election of species. The examiner pointed out the restriction requirement as follows:

Species I Figures 1 and 2

Species II Figures 3 and 4

Species III Figure 5

In response, Mr. Blackman made election without traverse to prosecute the invention of Figures 1 and 2, claims 1-8. Further, claims 9-15 have been withdrawn by Mr. Blackman from further consideration by the examiner.

In addition, Mr. Blackman authorized an examiner's amendment requiring cancellation of Claims 9-15.

A copy of the interview summary is attached herewith.

### *Election/Restrictions*

2. As best understanding, this application contains claims directed to the following patentably distinct species of the claimed invention:

Species I Figures 1 and 2

Species II Figures 3 and 4

Species II Figure 5

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. None of the claims is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

3. During a telephone conversation with the attorney, Mr. Robert N. Blackman, on March 10, 2005, elected without traverse to prosecute the invention of Figures 1 and 2,

claims 1-8. Claims 9-15 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

## EXAMINER'S AMENDMENT

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Robert N. Blackman on arch 10, 2005.

- Cancel claims 9-15.

## *Allowable Subject Matter*

5. Claims 1-8 are allowed.

The prior art of record, including Kameda et al. (US Patent No. 6,857,765 B2), Shaefer (US Patent No.: 6,390,647 B1) and Strauss (US Patent No. 5,506,761), fails to show or suggest the applicant's invention as claimed. Specifically, the prior art of record does not teach a night light combining:

- an acrylic body including a rotating cap with a reflector angled within the range of 30 to 60 degrees from the longitudinal axis of the acrylic body as recited in Claim 1.

The above-indicated combination, including a rotating cap including a reflector angled with the longitudinal axis of the body of the nightlight, makes this invention unique.

Shaefer ('647) discloses a night light including almost all structural limitations of independent Claim 1. However, Shaefer ('647) does not teach a rotating cap including a reflector angled within the range of 30 to 60 degrees from the longitudinal axis of the acrylic body.

Strauss ('761) discloses a lighting fixture including a rotating cap positioned on the top of a light transmitting body. Further, the cap includes a nozzle having a slanted opening that allows the light to exit. Rotation of the cap allows the light flux change its direction. However, Strauss ('761) does not teach the rotating cap including a reflector angled within the range of 30-60 degrees as claimed by the applicant.

Kameda et al. ('765 B2) discloses a decorative lighting fixture including a cap positioned on the top of a light transmitting body. Further, the cap includes an inverted V-shaped symmetrical hood reflecting the light to exit in downward direction. Kameda et al. ('765 B2) does not teach the hood being rotatable about the longitudinal axis of the fixture. Further, because of symmetrical configuration of the hood, there is no motivation to rotate the hood for the light to change its direction at the exit of the fixture.

Thus, neither combined not individual teaching of Shaefer ('647), Strauss ('761) and Kameda et al. ('765 B2) meets the limitation of the independent Claim 1.

Therefore Claim 1 is allowed over prior art.

Claims 2-8 are necessarily allowed because of their dependency on the allowed base Claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dickie (U.S. Patent Application Pub. No. US 2005/0018426 A1), Beadle (U.S. Patent No. 6,612,720 B1), Leen (U.S. Patent No. 6,561,677 B1), Vicktor (U.S. Patent No. 6,276,813 B1), Hall, II (U.S. Patent No.: 5,126,923), Hunter (U.S. Patent No. 4,104,615), Sloop et al. (U.S. Patent No. 3,877,171), Leotta (U.S. Patent No. 3,266,014) and Hotchkin (U.S. Patent No. 1,670,572)

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hargobind S. Sawhney whose telephone number is 703-306-5909. The examiner can normally be reached on 6:15 - 2:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 703-305-4939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HSS

3/10/2005

Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800